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26 February–23 March 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Andorra,* Armenia,* Australia, Austria,* Belgium, Bosnia and Herzegovina,* Bulgaria,* Canada,* Chile, Croatia, Cyprus,* Czechia,* Denmark,* Ecuador, Estonia,* Finland,* France,* Georgia, Germany, Ghana,* Greece,* Honduras,* Hungary, Iceland,* Ireland,* Israel,* Italy,* Latvia,* Liechtenstein,* Lithuania,* Luxembourg,* Maldives,* Malta,* Mexico, Montenegro,* Morocco,* Netherlands,* New Zealand,* Norway,* Paraguay,* Peru, Philippines, Poland,* Portugal,* Republic of Moldova,* Romania,* Serbia,* Slovakia, Slovenia, Spain, Sweden,* Switzerland, Turkey,* Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay:* draft resolution

37/... The negative impact of corruption on the right to be free from torture and other cruel, inhuman or degrading treatment or punishment

The Human Rights Council,

Recalling all resolutions on torture and other cruel, inhuman or degrading treatment or punishment adopted by the General Assembly, the Commission on Human Rights and the Human Rights Council,

Recalling also all relevant resolutions of the Commission on Human Rights and the Human Rights Council on the negative impact of corruption on human rights,

Reaffirming that no one shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment,

Acknowledging that good governance, transparency, accountability and the rule of law play a central role both in the promotion and protection of human rights, including to ensure the absolute prohibition against torture and other cruel, inhuman or degrading treatment or punishment, and in preventing and combating corruption at all levels,

Concerned about the seriousness of problems and threats posed by corruption to the stability and security of societies, undermining the institutions and values of democracy, ethical values and justice and jeopardising sustainable development and the rule of law,

Recognizing that the international legal frameworks for protecting human rights and fighting corruption are complementary and mutually reinforcing,

* State not a member of the Human Rights Council.

Recalling the correlation between the levels of corruption within a State and the prevalence of torture and other cruel, inhuman or degrading treatment or punishment recognized in the seventh annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[1]

Recognizing that corruption has a disproportionate impact on persons in vulnerable situations and persons belonging to marginalized groups and may have an adverse impact on their access to justice, redress and compensation, including as victims of torture and other cruel, inhuman or degrading treatment or punishment, which may increase their risk of being subjected to torture and other cruel, inhuman or degrading treatment or punishment,

1. *Urges* all States that have not become parties to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment to do so, and to give early consideration to signing and ratifying the Optional Protocol thereto as a matter of priority;

2. *Also urges* all States that have not yet done so to consider ratifying the United Nations Convention against Corruption, and calls upon States parties to the Convention to effectively implement it;

3. *Stresses* that all acts of torture must be made offences under domestic criminal law punishable by appropriate penalties that take into account their grave nature, and calls upon States to prohibit under domestic law acts constituting cruel, inhuman or degrading treatment or punishment;

4. *Calls upon* States to adopt such legislative and other measures as may be necessary to establish acts of corruption as criminal offences, as required in the United Nations Convention against Corruption, and as required in other relevant regional anti-corruption treaties to which they are a party;

5. *Stresses* that States must take effective legislative, administrative, judicial or other measures to prevent public officials, including law enforcement officials or other persons acting in an official capacity, from inflicting, instigating or consenting or acquiescing to any acts of torture or other cruel, inhuman or degrading treatment or punishment;

6. *Also stresses* that public officials should not commit any act of corruption, and that they should rigorously oppose and combat all such acts;

7. *Recognizes* that the prevalence of corruption, including in law enforcement and justice systems, can have a negative impact on the fight against torture and other cruel, inhuman or degrading treatment or punishment, including by eroding fundamental safeguards and preventing victims of torture and other cruel, inhuman or degrading treatment or punishment from effectively seeking justice, redress and compensation through the justice system;

8. *Recognizes with concern* that the threat or act of torture and other cruel, inhuman or degrading treatment or punishment may be used as a means of perpetrating acts of corruption;

9. *Recognizes* that measures to combat torture and other cruel, inhuman or degrading treatment or punishment should give due attention to the detrimental effects of corruption, and that efforts to prevent and combat corruption and efforts to prevent and combat torture and other cruel, inhuman or degrading treatment or punishment can be mutually reinforcing;

10. *Urges* States to adopt, implement and comply fully with legal and procedural safeguards against torture and other cruel, inhuman or degrading treatment or punishment, and ensure that these safeguards are not compromised by any form or practice of corruption, recognizing that such safeguards can also be a valuable protection against corrupt practices;

[1] CAT/C/52/2, para. 72.

11. *Underlines* that one key aspect of prevention measures against corruption is to address the needs of those in vulnerable situations and persons belonging to marginalized groups, who may be the first persons negatively affected by corruption and may consequently be at greater risk of being subjected to torture and other cruel, inhuman or degrading treatment or punishment;

12. *Invites* bodies working on the eradication and prevention of torture and other cruel, inhuman or degrading treatment or punishment to cooperate with national anti-corruption authorities and national human rights institutions, where they exist, in addressing how corruption negatively affects the right to be free from torture and other cruel, inhuman or degrading treatment or punishment, including through the exchange of relevant information;

13. *Emphasizes* the essential role of law enforcement officials, judges, prosecutors and lawyers in safeguarding the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, and that States should ensure the effective administration of justice, including by taking effective measures to combat corruption in the administration of justice, establishing proper legal aid programmes and having law enforcement officials, judges, prosecutors and lawyers adequately and in sufficient numbers selected, trained and remunerated;

14. *Calls upon* States, in the training of law enforcement personnel, judges, prosecutors and other relevant public officials, to include education and information regarding the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment and to enhance their awareness of how the risks of corruption in the performance of their functions may increase the risk of torture and other cruel, inhuman or degrading treatment or punishment;

15. *Stresses* that corruption in any area of the justice system has a negative impact on its independence, impartiality and effectiveness, including its mechanisms that investigate and prosecute acts of torture and other cruel, inhuman or degrading treatment or punishment and provide access to justice, redress and compensation for victims of such acts;

16. *Emphasizes* that independent oversight and complaints mechanisms and an independent, impartial and effective justice system contribute to accountability, which is essential to the prevention of corruption and of torture and other cruel, inhuman or degrading treatment or punishment, including if facilitated or practiced due to or as a result of corruption;

17. *Also emphasizes* that States are obligated to ensure that any person who alleges to have been subjected to torture or other cruel, inhuman or degrading treatment or punishment in any territory under its jurisdiction has the right to complain to the competent authorities, and that steps are taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his or her complaint or any evidence given;

18. *Calls upon* States to ensure accountability for acts of torture and other cruel, inhuman or degrading treatment or punishment, and in this regard stresses that preventing and combating corruption are important in ensuring the ability of the competent national authorities to investigate promptly, effectively, independently and impartially all allegations of such acts;

19. *Takes note with appreciation* of the report of the Special Rapporteur;[2]

20. *Invites* the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and other relevant special procedures, within their respective mandates, to take the present resolution into account in their future work.

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[2] A/HRC/37/50.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Andorra,* Angola, Argentina,* Australia, Austria,* Belgium, Bolivia (Plurinational State of),* Bosnia and Herzegovina,* Brazil, Bulgaria,* Chile, Colombia,* Costa Rica,* Croatia, Cuba, Cyprus,* Czechia,* Denmark,* Ecuador, El Salvador,* Estonia,* Finland,* France,* Georgia, Germany, Greece,* Haiti,* Honduras,* Hungary, Ireland,* Italy,* Latvia,* Liechtenstein,* Lithuania,* Luxembourg,* Malta,* Mexico, Monaco,* Montenegro,* Netherlands,* New Zealand,* Nicaragua,* Panama, Paraguay,* Peru, Philippines, Poland,* Portugal,* Republic of Moldova,* Romania,* Serbia,* Slovakia, Slovenia, Spain, Sweden,* Switzerland, Thailand,* Turkey,* Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay,* Venezuela (Bolivarian Republic of): draft resolution

37/... Rights of the child: protection of the rights of the child in humanitarian situations

The Human Rights Council,

Emphasizing that the Convention on the Rights of the Child constitutes the standard in the promotion and protection of the rights of the child and, bearing in mind the importance of the Optional Protocols to the Convention, calling for their universal ratification and effective implementation,

Recalling all previous resolutions on the rights of the child of the Commission on Human Rights, the Human Rights Council and the General Assembly, the most recent being Council resolution 34/16 of 24 March 2017 and Assembly resolution 72/245 of 24 December 2017,

Reaffirming General Assembly resolution 46/182 of 19 December 1991 and the guiding principles contained in the annex thereto,

Reaffirming also the principles of humanity, neutrality, impartiality and independence in the provision of humanitarian assistance,

Reaffirming further that the general principles of the Convention on the Rights of the Child, including the best interests of the child, non-discrimination, participation, survival and development, provide the framework for all actions concerning children,

Welcoming the work of the Committee on the Rights of the Child and of other treaty bodies, and noting in particular the general comments of the Committee,

* State not a member of the Human Rights Council.

Welcoming also the attention paid by the special procedures of the Human Rights Council to the rights of the child in the context of their respective mandates, in particular the work of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material and the Special Rapporteur on trafficking in persons, especially women and children, as well as the work of the Special Representative of the Secretary-General on Violence against Children and the Special Representative of the Secretary-General for Children and Armed Conflict, and taking note of their most recent reports,[1]

Acknowledging that international humanitarian law and international human rights law are complementary and mutually reinforcing,

Recognizing that humanitarian situations compromise the effective enjoyment of the rights of the child, including the rights to life, to survival, to development, to family relations and not to be separated from one's parents against one's will unless necessary for the best interests of the child, to the highest attainable standard of health, to an adequate standard of living, to education, to recreation and play and to be protected from all forms of violence, abuse, neglect or exploitation,

Recognizing also the work undertaken on a global compact on refugees and a global compact for safe, orderly and regular migration, to be considered for adoption in 2018, and recalling the importance of protecting the human rights and fundamental freedoms of all refugee and migrant children, with the best interests of the child as a primary consideration,

Mindful of the commitment of States to work towards ending the detention of children for the purpose of determining their migration status, in accordance with the New York Declaration for Refugees and Migrants,

Profoundly concerned that children in many parts of the world remain negatively affected by the impacts of climate change, natural disasters and extreme weather events, including persistent drought, land degradation, sea level rise, coastal erosion and ocean acidification, which further threaten health, food security and efforts to eradicate poverty and achieve sustainable development, and in this regard calling for the implementation of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change,

Recognizing that children are disproportionately affected in complex humanitarian emergencies, which increases their vulnerability as refugees, asylum seekers, internally displaced persons, stateless persons, migrants and those remaining in areas of armed conflict, in particular when they are unaccompanied and separated,

Recalling that, around the world, nearly 50 million children have migrated across borders or been forcibly displaced, including more than 10 million child refugees, 1 million child asylum seekers and another 20 million migrant children who have crossed international borders, an estimated 17 million children internally displaced due to conflict and violence and more than 300,000 unaccompanied and separated children, and that children now comprise half of all refugees,

Recognizing the particular vulnerability of girls and boys to violence, including trafficking in persons, sale, sexual violence and abuse and other forms of exploitation, in the context of humanitarian situations,

Recognizing also the psychological distress that humanitarian situations cause children and their families, putting children at heightened risk for impaired developmental and health outcomes that can follow them throughout their lives,

1. *Takes note with appreciation* of the report of the United Nations High Commissioner for Human Rights entitled "Protecting the rights of the child in humanitarian situations";[2]

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[1] A/HRC/37/60, A/72/164, A/HRC/37/48 and A/HRC/37/47.

[2] A/HRC/37/33.

2. *Calls upon* States to take all measures necessary to ensure the enjoyment by children of all their human rights, without discrimination of any kind, including in the context of humanitarian situations;

3. *Also calls upon* States to give particular attention to the rights of the child in the context of humanitarian situations, consistent with their obligations under international human rights law and, as applicable, international humanitarian and refugee law;

4. *Recalls* the obligations under the Convention on the Rights of the Child that States undertake to respect and ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child, and their obligation under international humanitarian law to protect the civilian population in armed conflicts, and calls on States to take all feasible measures to ensure the protection and care of children who are affected by an armed conflict;

5. *Urges* States to provide age-, disability- and gender-sensitive humanitarian assistance, including specialized child protection services, to children in the context of humanitarian situations, including refugee and displaced children, that takes into account the particular vulnerabilities and specific protection needs of children, including those who have been forced to flee violence, who have suffered persecution, who are the primary caregivers of families, who have disabilities or who are unaccompanied or separated;

6. *Also urges* States, in accordance with their obligations under international law, to take all appropriate steps to facilitate the reunification of families separated in armed conflict, including, where relevant, by establishing a national bureau to receive information from, and transmit information to, family members, by supplying to the Central Tracing Agency of the International Committee of the Red Cross information concerning persons reported missing and by encouraging the work of the humanitarian organizations engaged in the task of family tracing and reunification, and, in cases where no parents or other family members of a child can be found, to ensure that the child is accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason;

7. *Calls upon* States to put in place, if they have not yet done so, appropriate policies, systems and procedures to ensure that the best interests of the child are a primary consideration in all actions or decisions concerning migrant children, regardless of their migration status, and to use alternatives to the detention of migrant children, including by promoting the use of non-custodial solutions, implemented by competent child protection actors engaging with the child and, where applicable, his or her family;

8. *Urges* States, in accordance with their obligations under international law, to take all feasible measures to ensure that children who have not yet attained the age of 18 do not take direct part in hostilities, to refrain from recruiting children under the age of 15 into their armed forces, and to ensure that persons who have not attained the age of 18 are not compulsorily recruited into their armed forces;

9. *Strongly condemns* the recruitment and use of children in violation of applicable international law, and calls upon States to take all feasible measures to implement effective measures for the rehabilitation and physical and psychological recovery of those who have been so recruited or used and for their reintegration into society, in particular through educational measures, taking into account the rights and specific needs of girls;

10. *Urges* States to ensure that timely and adequate funding and attention is dedicated to children in the contexts of national disarmament, demobilization and reintegration programmes and of settlement, rehabilitation and reintegration efforts for children associated with armed forces and groups, including detained children, and to secure the long-term sustainability of such efforts;

11. *Calls upon* States to protect children in the context of humanitarian situations from all forms of sale of children, including illegal adoption, and from all forms of trafficking in persons, including by training all stakeholders to identify potential child victims of trafficking and children at risk of being trafficked;

12. *Welcomes* the determination of the Secretary-General to fully implement the United Nations policy of zero tolerance of sexual exploitation and abuse;

13. *Invites* all stakeholders to promote the use of the Inter-Agency Standing Committee's Guidelines for Integrating Gender-based Violence Interventions in Humanitarian Action, the Minimum Standards for Child Protection in Humanitarian Action and the Inter-Agency Guiding Principles on Unaccompanied and Separated Children;

14. *Calls upon* States to develop, in consultation with children, and integrate into humanitarian responses, from the early stages of humanitarian emergencies, measures to address the increased vulnerability of girls to child, early and forced marriage and to protect children, especially girls, from sexual and gender-based violence, exploitation and abuse during humanitarian emergencies and situations of forced displacement, armed conflict and natural disaster, including by ensuring that health-care and education services, goods and facilities are available, accessible, acceptable and of quality and that safe counselling, reporting and complaint mechanisms are available to and accessible by all child victims of violence, including sexual violence;

15. *Reminds* States of their obligation to register all births without discrimination of any kind, and also reminds States that birth registration should take place immediately after birth, in the country where children are born, including the children of migrants, non-nationals, asylum seekers, refugees, displaced and stateless persons, in accordance with their national law and their obligations under the relevant international instruments, that late birth registration should be limited to those cases that would otherwise result in a lack of registration and that the child has the rights from birth to a name, to acquire a nationality and, as far as possible, to know and be cared for by his or her parents;

16. *Calls upon* States to take all appropriate measures to permanently store and protect civil registration records and to prevent the loss or destruction of records inter alia, due to natural disasters, emergencies or armed conflict situations, including through the use of digital and new technologies as means to facilitate and universalize access to civil registration records, including birth registration;

17. *Urges* States, with the collaboration of relevant stakeholders and considering their obligation to ensure to the maximum extent possible the survival and development of the child, to take all measures necessary to ensure that no child is denied access to humanitarian assistance and to meet the needs of children in the context of humanitarian situations, including protection from all forms of violence, exploitation and abuse, including sexual and gender-based violence, provision of safe drinking water and sanitation, food, shelter, health-care services, including with regard to immunization, nutrition, mental and psychological support and sexual and reproductive health-care services, rehabilitation and education;

18. *Calls upon* States to ensure that all decision-making and assessments regarding children in the context of humanitarian situations are age-, gender- and disability-sensitive, and that civil registration and vital statistics are an integral part of humanitarian assessments;

19. *Strongly condemns* acts of violence, attacks and threats against the wounded and sick, medical personnel and humanitarian personnel exclusively engaged in medical duties, their means of transport and equipment, as well as hospitals and other medical facilities, and the long-term consequences of such attacks for the civilian population, in particular children, and for the health-care systems of the countries concerned;

20. *Urges* States, in accordance with their obligations under relevant provisions of international human rights law, including the right of the child to the enjoyment of the highest attainable standard of physical and mental health, to promote the availability, quality, accessibility and acceptability of health-care services;

21. *Calls upon* States to respect, protect and fulfil the right of all children to education, including through increased emphasis on inclusive and quality education, and to promote school enrolment and retention among girls and children in vulnerable situations, such as children with disabilities, including in secondary school;

22. *Strongly condemns* all attacks directed against civilian objects dedicated to educational purposes and on their students and staff, including attacks the primary purpose of which is to spread terror among the civilian population, calls upon States to continue to make efforts to strengthen the protection of preschools, schools and universities against attacks, including by taking measures to deter the military use of schools in violation of applicable international law, recognizes the negative impact that such attacks have on the progressive realization of the right to education, and encourages efforts to provide an inclusive, enabling and secure environment to ensure the safety of schools;

23. *Encourages* States to contemplate non-formal learning in the context of emergency response plans when formal education is not possible, in order to ensure that education continues to be delivered;

24. *Encourages* States, local authorities, the United Nations system, regional organizations and civil society, and invites donors and other assisting countries, to address the vulnerabilities and capacities of children, particularly girls, through gender-responsive programming, including with regard to sexual and reproductive health and means to prevent and respond to sexual and gender-based violence, various forms of exploitation and neglect, and harmful practices, such as child, early and forced marriage, during emergencies and in post-disaster environments, and through the allocation of resources in their disaster risk reduction, response and recovery efforts, in coordination with the Governments of affected countries;

25. *Calls upon* States to promote the meaningful participation of and active consultation with children and adolescents affected by humanitarian situations on all issues affecting them and to raise awareness about their rights through safe spaces, forums and support networks that provide children with information, life skills and leadership skills training and opportunities to be empowered to express themselves and to participate meaningfully, consistent with their evolving capacities, during and after an emergency;

26. *Also calls upon* States to ensure that the best interests of the child are a primary consideration in all actions concerning children, and recommends that States, in cooperation with international organizations and civil society, as well as the private sector as appropriate:

(a) Conduct child-inclusive planning and assess child protection needs and vulnerabilities when making age-, disability- and gender-sensitive provisions for emergency preparedness, humanitarian response and assistance;

(b) Promote child-centred innovation, empowering children to be agents of positive change and building their resilience through the development of innovative child-centred participatory approaches, encourage children to be involved in their own protection and support them in developing self-protective skills;

(c) Fully consider the needs of children affected by armed conflict, including with regard to rehabilitation and reintegration;

(d) Mainstream prevention of and protection from sexual exploitation and abuse, child, early and forced marriage, female genital mutilation and violence against children, including sexual and gender-based violence, into emergency and humanitarian responses, and address the underlying factors that make children, especially girls, particularly vulnerable to these practices;

(e) Work to prevent family separation in the context of humanitarian situations and ensure without delay family tracing and reunification where it occurs, allocate sufficient resources to family reunification procedures to ensure the operational capacity to carry out evaluations in a reasonable time frame and to reduce the overall length of the process, and provide alternative care for children deprived of parental care or who are at risk of being so, taking into account the Guidelines for the Alternative Care of Children;

(f) Provide age-appropriate and gender-sensitive mental health and psychosocial support tailored to children in the context of humanitarian situations, based on respect for human rights and for their dignity, integrity and autonomy, to prevent and address distress, fear and trauma and to help to build their resilience, in particular, where a child has been a

victim of violence or exploitation or has acquired an injury or disability, adopt durable solutions to ensure that the child has access to long-term care and protection, including health care, psychosocial support, social services and education, including human rights education, vocational training and life skills education;

(g) Increase and improve the financing for education in emergencies so that children's right to education is recognized as a critical part of humanitarian responses;

(h) Create quality and meaningful child-friendly and gender-sensitive spaces to provide nurturing environments where children have access to play, recreation, leisure and learning activities, with child-friendly spaces serving as a referral mechanism to other services as appropriate, and to help to restore a sense of normality and continuity;

(i) Work towards ensuring that no child is denied access to humanitarian assistance and that all children are registered and identified;

(j) Ensure the safety and security of humanitarian personnel, and that humanitarian aid is delivered without impediment and in accordance with humanitarian principles;

Follow-up

27. *Encourages* special procedures and other human rights mechanisms of the Council to continue to integrate a child rights perspective while implementing their mandates and to include in their reports information, qualitative analysis and recommendations on child rights;

28. *Invites* all human rights treaty bodies to continue to integrate the rights of the child into their work, in particular in their concluding observations, general comments and recommendations;

29. *Requests* the United Nations High Commissioner for Human Rights to contribute to the work of the high-level political forum on sustainable development on the follow-up of the 2030 Agenda for Sustainable Development, in consultation with relevant stakeholders, including the United Nations Children's Fund, other relevant United Nations bodies and agencies, the Special Representative of the Secretary-General on Violence against Children and the Special Representative of the Secretary-General for Children and Armed Conflict, relevant special procedure mandate holders, regional organizations and human rights bodies, and civil society, in particular by providing comprehensive inputs from a child rights perspective to the yearly thematic reviews of progress at the forum, focusing on achievements and challenges, taking into account the implementation of recommendations contained in previous Human Rights Council resolutions on the rights of the child;

30. *Decides* to continue its consideration of the question of the rights of the child in accordance with its programme of work and its resolutions 7/29 of 28 March 2008 and 19/37 of 23 March 2012, and to focus its next annual full-day meeting on the theme "Empowering children with disabilities for the enjoyment of their human rights, including through inclusive education", and requests the United Nations High Commissioner for Human Rights to prepare a report on that theme, in close cooperation with all relevant stakeholders, including States, the United Nations Children's Fund, other relevant United Nations bodies and agencies, the Special Representative of the Secretary-General on Violence against Children, the Special Representative of the Secretary-General for Children and Armed Conflict, relevant special procedure mandate holders, regional organizations and human rights bodies, national human rights institutions and civil society, including children themselves, and to present it to the Human Rights Council at its fortieth session, with a view to providing information for the annual day of discussion on the rights of the child.